S.B. CIVIL MISC. APPEAL NO.785/2006
[State of Rajasthan & anr. Vs. Sunit Kumar Nanda]

DATED :05.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. B.L.Bhati, Addl. Government Advocate for the appellants.

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Having heard learned Addl. Govt. Advocate for the appellants and having perused the impugned award dated 08.11.2005 made by the Motor Accident Claims Tribunal (Fast Track), Banswara in Claim Case No.28/2005, this court is satisfied that this appeal by the owners of the vehicle seeking to question the award of Rs.67,000/- made in favour of the claimant for compensation for the injuries suffered by him in the vehicular accident, remains totally bereft of substance and deserves to be dismissed without being admitted.

On 29.09.2001 at about 12.00 noon, the claimant, Sunit Kumar while riding his motor cycle bearing registration No.RJ 02 2M 0922 was hit by a mini bus bearing registration No.RJ B 8021 driven by the non-applicant No.1 Shravan Kumar (since deceased) and owned by non-applicants No.2 and 3 (present appellants). The claimant sustained several injuries and made the claim for compensation against the non-applicants. The Tribunal found the accident to have occurred for rash and

negligent driving by Shravan Kumar of mini bus RJ B 8021 and the claimant having sustained injuries in the accident.

Taking up quantification of compensation, the Tribunal examined the evidence on record and found that the claimant suffered five injuries and one injury below the right eye was shown as grievous. However, claimant was found to have been treated for the fracture of right fibula bone. In the overall circumstances, the Tribunal allowed Rs.18,000/- for pains and sufferings on account of injuries. No documentary proof regarding attendant, special diet and transportation having been produced, the Tribunal allowed Rs.8000/- on these counts. Having regard to the status of the claimant as a government employee, and the period he was required to remain absent from duty, he was allowed Rs.7000/- for the loss of 27 days of privilege leave. With reference to the bills of expenditure on treatment, the Tribunal allowed Rs.19,000/- to the claimant. No amount was allowed towards motor cycle repairing and the bill Ex.12 was discarded for having not been verified by any mechanic. The claim of 30% disablement at ankle joint was also not accepted as such except the fact that the claimant was suffering discomfort in his normal work and, therefore, he was allowed Rs.15,000/- for such permanent discomfort. In this manner, the Tribunal made a total award of

Rs.67,000/- in favour of the claimant and allowed interest @ 6% per annum.

So far the findings of rash and negligent driving of the mini bus driver are concerned, the same have been arrived at after examining the oral and documentary evidence adduced by the claimant and it has been found that the bus hit the motor cyclist after intruding into wrong side. Moreover, no evidence has been led by the non-applicants and, therefore, the Tribunal cannot be said to be in error in recording the finding in favour of the claimant on the basis of uncontroverted evidence.

The considerations adopted by the Tribunal on quantification of compensation having regard to the injuries suffered by the claimant cannot be said to be unjust or unreasonable and the total award made by the Tribunal of Rs.67,000/- cannot be said to be highly excessive in view of the injuries found proved. The medical expenditure on the basis of the bills has been permitted at Rs.19,000/- and surrounding thereto, the estimation of pains and sufferings and loss of amenity in the life cannot be said to be on the higher side. Moreover, the Tribunal has not allowed any amount towards repairing of the motor cycle. An overall comprehension of award makes it clear that the same cannot

be said to be highly excessive so as to warrant any interference in appeal.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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